

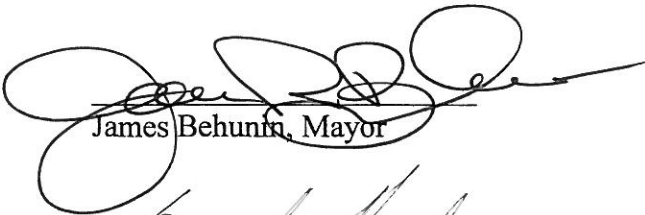
ORDINANCE 295-07

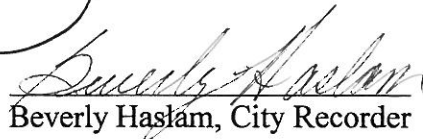
HISTORIC PRESERVATION ORDINANCE

AN ORDINANCE ESTABLISHING HISTORIC PRESERVATION STANDARDS IN ORDER TO PRESERVE, PROTECT AND ENHANCE THE HISTORIC AREAS AND SITES LYING WITHIN WEST BOUNTIFUL CITY LIMITS.

BE IT ORDAINED BY THE CITY COUNCIL OF WEST BOUNTIFUL CITY, DAVIS COUNTY, STATE OF UTAH AS ATTACHED.

Effective Date: This Ordinance shall take effect upon Twenty (20) days after posting.


James Behunin, Mayor


Beverly Haslam, City Recorder

Date this 1st day of May 2007



Chapter 2.44 HISTORIC PRESERVATION ORDINANCE

Sections:

- 2.44.010 Purpose.**
- 2.44.020 Established.**
- 2.44.030 Commission duties.**
- 2.44.040 West Bountiful sites list.**
- 2.44.050 West Bountiful landmark register.**
- 2.44.060 Standards for rehabilitation.**
- 2.44.070 Standards for property development**
- 2.44.080 Standards for new construction**

2.44.010 Purpose.

The city recognizes that the historical heritage of the West Bountiful community is among its most valued and important assets. It is therefore the intent of West Bountiful to identify, preserve, protect and enhance historic areas and sites lying within the city limits. (Ord. 236-94 § 1)

2.44.020 Established.

A Historic Preservation Commission is established by the city of West Bountiful with the following provisions:

A. The Commission shall consist of a minimum of five voting members with a demonstrated dedication, interest, competence or knowledge in historic preservation, appointed by the City Council for terms of not less than two years. The Commission shall also have a non-voting representative from the Planning and Zoning Commission and the City Council.

B. To the extent available in the community, two commission members shall be professionals, as defined by National Park Service regulations, from the discipline of history, archaeology, planning, architecture or architectural history.

C. The Commission shall meet at least once each month and conduct business in accordance with the Open Public Meeting laws of Utah. This includes public notification of meeting place, time and agenda items.

D. Written minutes of each commission meeting shall be prepared and made available for public inspection. (Ord. 236-94 § 2)

2.44.030 Commission Duties.

The Historic Preservation Commission shall have the following duties.

A. Survey and Inventory Community Historic Resources. The Historic Preservation Commission shall conduct or cause to be conducted a survey of the historic, architectural and archaeological resources within the community. The survey shall be compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten (10) years.

B. Review Proposed Nominations to the National Register of Historic Places. The Historic Preservation Commission shall review and comment to the State Historic Preservation Officer on all proposed National Registry nominations for properties within the boundaries of West Bountiful City. When the Historic Preservation Commission considers a National Register nomination which is normally evaluated by professionals in a specific discipline and that discipline is not represented on the commission, the commission shall seek expertise in that area before rendering its decision.

C. Provide Advice and Information.

1. The Historic Preservation Commission shall act in an advisory role to other officials and departments of government regarding the identification and protection of local historic and archaeological resources.

2. The historic preservation commission shall work toward the continuing education of citizens regarding historic preservation and community history.

D. Advise in the building, maintenance and rehabilitation of city-owned buildings and sites in the Historic District.

E. Apply for and administer grants as approved by the city council and other financial aid for historic preservation projects in the city.

F. Enforcement of State Historic Preservation Laws. The commission shall support the enforcement of all state laws relating to historic preservation. These include, but are not limited to: U.C.A. 17A-3-1301 to 1306, The Historic District Act; U.C.A. § 9-8-305, 307 and 308 regarding the protection of Utah antiquities; and U.C.A. § 9-8-404 regarding notification of the State Historic Preservation Office of any known proposed action which will destroy or affect a site, building or object owned by the state of Utah and included on or eligible for the state of National Registers.

G. Act as a review committee for streetscapes, landscapes and architectural design within the historic districts.

H. Prepare guidelines for rehabilitation, new construction and landscape within the historic districts.

2.44.040 West Bountiful sites list.

The Historic Preservation Commission may designate an historic district and historic properties to the historic sites list as a means of providing recognition to and encouraging the preservation of historic properties in the community.

A. Criteria for Designation of Properties to the West Bountiful Historic Sites List. Any district, building, structure, object or site may be designated to the historic sites list if it meets all of the criteria outlined below:

1. It is located within the official boundaries of the city;

2. It is at least fifty (50) years old;

3.a. It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior

walls with non-historic materials moving the resources from its original location to one that it dissimilar to the original addition which significantly detracts from or obscures the original form and appearance of the structure when viewed from the public way.

3.b. If the property does not meet the integrity requirements outlined in subdivision 3.a. of this subsection, it may still qualify for designation if it meets one of the following requirements for exception significance:

- i. It is directly associated with events of historic significance in the community;
- ii. It is closely associated with the lives of persons who were of historic importance to the community,
- iii. It exhibits significant methods of construction or materials that were used within the historic period.

4. It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys (June 1993 version or subsequent revisions) and copies of that documentation have been placed in the local and state historic preservation files.

B. Designation Procedures. Any person, group or government agency may nominate a property for listing in West Bountiful historic sites list but proceedings cannot be initiated without written consent of the property owner. The nomination and listing procedures are as follows:

1. Completed intensive level survey documentation for each nominated property must be submitted in duplicate to the Historic Preservation Commission.

2. The Commission will review and consider properly submitted nominations at its next scheduled meeting. The Commission will notify the nominating party, either orally or in writing one week prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting. The one-week notification may be waived at the nominating party's option in order to accommodate "last-minute" submittals, though no nomination will be reviewed if it is submitted to the commission less than forty-eight (48) hours prior to the meeting.

3. The Historic Preservation Commission will review the document for completeness, accuracy and compliance with the criteria for designating historic properties to the West Bountiful historic sites list and will make its decision accordingly.

C. Results of Designation to the Historic Sites List.

1. Owners of officially designated historic sites may obtain a historic site certificate from the Historic Preservation Commission. The certificate contains the historic name of the property, the date of designation, and signature of the mayor and the Historic Preservation Commission chairperson.

a. If a historic site is to be demolished or extensively altered, efforts will be made to document its physical appearance before that action takes place. The City will delay issuing a demolition permit for a maximum of fifteen (15) days and will notify a member of the historic preservation commission, which will take responsibility for the documentation.

b. Documentation will include, at a minimum exterior photographs (both black and white and color slides) of all elevations of the historic building. When possible, both

exterior and interior measurements of the building will be made in order to provide an accurate floor plan drawing of the building.

c. The demolition permit will be issued after fifteen (15) days of the initial application whether or not the commission has documented the building. The permit may be issued earlier if the commission completes its documentation before the fifteen (15) day deadline.

d. The documentation will be kept in the commission's historic site files, which are open to the public.

D. Removal of Properties from the Historic Sites List. Properties which, in the opinion of the Historic Preservation Commission, no longer meet the criteria for eligibility may be removed from the historic sites list after review and consideration by the Commission.

2.44.050 West Bountiful Landmark Register.

Significant historic properties may be designated to the historic landmark register for the purposes of recognizing their significance and providing incentives and guidelines for their preservation.

A. Criteria for Designating Properties to the West Bountiful Landmark Register. Any building, structure, object or site may be designated to the historical landmark register if it meets all of the criteria outlined below.

1. It is located within the official boundaries of the city;
2. It is currently listed in the National Register of Historic Places and a copy of the approved National Register form has been placed in the local historic preservation files, or it has been officially determined eligible for listing in the National Register of Historic Places under the provision of 36 CAR 60.6(s). Properties listed on or determined eligible for the National Register must, in addition to retaining their integrity as defined in Section 2.44.040.A.3.a, must meet at least one of the following National Register criteria:

- a. Associated with events that have made a significant contributions to the broad patterns of our history; or

- b. Associated with the lives of persons significant in our past; or

- c. Embody the distinctive characteristics of a type, period or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

- d. Have yielded, or may be likely to yield, information important in prehistory or history (archeological sites, for example.)

3. It has been documented according to the Utah State Historic Preservation Office standards for Intensive Level Surveys (June 1993 version or subsequent revisions) or National Register standards and a copy of that documentation has been placed in the local historic preservation files.

4. The owner of the property approves of the action to designate his or her property to the historic landmark register and has submitted to the commission a written statement to that effect.

5. **Historic Districts.** Any district may be designated to the historical landmark register if a majority (over 50 percent) of the property owners in the proposed historic district is in favor of the designation or at least not opposed to it. Notice will be given to each affected property owner. Written objections from over 50 percent of the property owners will constitute lack of approval and will halt the designation process.

B. Designation Procedures.

1. Submittal to the Commission of complete Intensive Level Survey or National Register of Historic Places documentation shall initiate the review process.

2. Upon receipt of the submittal, the commission chairperson shall arrange for the nomination to be considered at the next commission meeting, which shall be held at a time not to exceed thirty (30) days from the date the request was received.

3. The decision by the commission shall be based on the eligibility of the property in terms of meeting the Criteria for Designating Properties to the West Bountiful Historic Landmark Register. The commission shall forward its recommendation in writing to the City Council within fourteen (14) days.

4. The City Council may, by approval and passage of an appropriate resolution, designate properties to the historic landmark register. Following designation, a notice of such shall be mailed to the owners of record together with a copy of the ordinance codified in this chapter.

C. Notification and Recording of Designation.

When historic properties have been officially designated to the West Bountiful historic landmark register by the City Council, the Commission shall promptly notify the owners of those properties. The Commission shall record the historic landmark register status designation with the county recorder's office.

D. Results of Designation to the Historic Landmark Register.

1. Properties designated to the historic landmark register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation.

2. In the event of rehabilitation of the property, local building officials will consider waiving certain code requirements in accordance with *Chapter 34* of the Uniform Building Code (1994), which deals with historic buildings, or the Uniform Code for Building Conservation, a special code for existing buildings.

3. Owners of historic landmarks may seek assistance from the Historic Preservation Commission in applying for grants or tax credit for rehabilitating their properties.

4. Any proposed construction, alteration, modification or demolition of exterior work is subject to the review and approval of the Historic Preservation Commission. The purpose of this review is to ensure the preservation of historic properties to the greatest degree possible. This review applies to individually designated Landmark properties or any property, contributing or non-contributing, located in a Landmark-designated historic district. This review applies only to exterior work which requires a building permit, sign permit, or demolition permit.

a. Application for permits pertaining to historic landmark properties shall be forwarded by the building inspector to the Historic Preservation Commission prior to their issuance.

b. A permit applicant, in order to obtain a permit from the Building Inspections Division, shall file a request for a Certificate of Appropriateness with the Commission on a form furnished by the Commission.

c. At its next scheduled meeting, the Commission shall review the application and proposed work for compliance with the spirit of the Secretary of the Interior's "Standards for Rehabilitation", hereafter referred to as the "Standards" and any design guidelines recommended by the Commission and adopted by the City Council and will make a decision as to the approval or denial of the application. (See Section 2.44.060)

d. The Commission's decision shall be forwarded within three days to the City staff for its consideration. The recommendation must indicate which of the Standards the Commission's decision was based on and, where appropriate a brief explanation. Copies of the decision shall be sent to the building inspector and the property owner at the same time.

e. Applicants whose proposed projects are found to be in non-compliance with this Title shall be offered a negotiating period of thirty (30) days, during which time the Commission and applicant shall explore all options for an acceptable solution. These may include the feasibility of modifying the plans, using the historic landmark for alternative purposes, and reselling the property to another party. If the Certificate of Historic Appropriateness is denied, the Building Official shall not issue any permits.

f. **Claims of Economic Hardship.** The Commission may approve a waiver to a Certificate of Appropriateness for Rehabilitation or Demolition of a landmark property if the owner has presented substantial evidence demonstrating that unreasonable economic hardship will result from denial of the Certificate of Appropriateness.

i. **Economic Hardship Criteria.** In order to sustain a claim of unreasonable economic hardship, the Commission may require the owner to provide information to whether the property is capable of producing a reasonable return for the owner.

ii. **Demonstration of economic hardship** by the owner shall not be based on conditions resulting from willful or negligent acts by the owner, purchasing the property for substantially more than market value at the time of purchase, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

g. An applicant who has been denied any permit by the Building Official, based on the Commission's refusal to issue a Certificate of Historic Appropriateness, may appeal that decision to the Planning and Zoning Commission. The appeal must be made on or before thirty (30) days after the Commission's decision. The Historic Preservation Commission's decision will be upheld unless found to be arbitrary, capricious or not based on substantial evidence. Any appeal of the Planning and Zoning Commission determination must be made to the appropriate District Court of the State of Utah.

E. Removal of Properties from the Historic Landmark Register. Properties which, in the opinion of the Historic Preservation Commission, no longer meet the criteria for eligibility may be removed from the historic landmark register after review and consideration by the commission. The property owner shall be advised by mail of the Historic Preservation Commission meeting during which the removal will be considered. The owner will be notified of the decision of the Commission and will have thirty (30) days to appeal the decision of the Commission to the Planning and Zoning Commission. However, nothing in this chapter shall be construed to prevent an owner from removing his or her property from the historic landmark register as the owner in his or her sole discretion shall deem appropriate. Further, the City shall not accept any liability whatsoever for an owner's decision to remove property from the historic register.

F. Enforcement. The provisions of this section are subject to the enforcement provisions established in the Uniform Building Code, Uniform Code for Building Conservation, or in the Uniform Housing Code as adopted by West Bountiful. (Ord. 236-94 § 8)

2.44.060 Standards for rehabilitation.

The following standards for rehabilitation shall be used by the Historic Preservation Commission when determining the historic appropriateness of any application pertaining to historic landmark properties:

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterized a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New additions, exteriors alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 236-94 § 9)

K. Any appeal of the rehabilitation decision to the Planning and Zoning Commission must be made on or before thirty (30) days after the Historic Preservation Commission's decision. The Historic Preservation Commission's decision will be upheld unless found to be arbitrary, capricious or not based on substantial evidence. Any appeal of the Planning and Zoning Commission determination must be made to the appropriate District Court of the State of Utah.

2.44.070 Standards for property development in the historic districts of West Bountiful City.

A. The Historic Preservation Commission shall determine the historic appropriateness for future streetscape plans within historic districts to include but not be limited to beautification projects, squeeze zones, street lighting, plants and trees, bike lanes and the use of current roadside historic structures and/or markers.

B. The following standards are minimum requirements for any new developments within the historic districts. The existing historic district along 800 West shall be upgraded to the same streetscape regulations as monies become available and the City Council deems the upgrades feasible.

1) Crosswalks: full-depth colored and stamped concrete shall be implemented in constructing crosswalks.

2) Parking strips: shall be established at a standard width of six (6) feet in total width.

3) Sidewalks: shall be established at a standard five (5) feet wide.

4) **Street Lighting:** Period lighting, as recommended by the Historic Preservation Commission, shall be constructed and placed at an approximate spacing of five-hundred (500) feet.

5) **Trees:** Existing historical trees shall be retained whenever possible. Additional trees shall be planted in the parking strip approximately sixty (60) feet from each other at uniform intervals along the length of the historic district. The variety of the trees will be determined by the Historic Preservation Commission.

C. Unless expressly stated to the contrary in this chapter, all provisions of the West Bountiful City Building Code and Ordinances shall apply in addition to the provisions of the Historic Preservation Commission Ordinance. In the case of any direct conflict between this chapter and other provisions of the West Bountiful City Code or Ordinances, the more restrictive provision shall apply.

D. All new development plat maps must indicate that the development is located in the Historic District. In addition, each building lot must be marked with an "R" next to the Lot # on all plat maps submitted to the Planning and Zoning Commission and the City Council for approval and on the plat map filed with the County Recorder. This "R" indicates to the buyer and to the contractor that the property has "restrictions" unique to the Historic District and that additional procedures must be followed in the approval and construction phases.

2.44.080 Standards for new construction within the historic districts of West Bountiful City.

A. Review Process

1. **Review Committee:** The Historic Preservation Commission (hereinafter referred to as "the Commission") shall act as the historic district design review committee. No dwelling or other building shall be erected or altered on any lot in the Historic District without the review and recommendation of the construction plans by the Commission. All construction plans and specifications shall include a plan showing the location of the proposed structure on the lot and a list of the proposed construction materials. Plans and materials shall be in harmony with the requirements of this ordinance as well as the exterior design of the existing structures in the Historic District, compliance with which shall be determined by the Commission.

2. The "Seller" of a building lot or a home in the Historic District must give the prospective "Purchaser" a "building packet" provided by the Commission containing a copy of the Historic District Ordinance and a checklist of documents required to be submitted to the Commission for review. The prospective "Purchaser" of a building lot or an existing home in the Historic District must sign for and acknowledge receipt of the "building packet" and execute a statement of their willingness to comply with the Historic

District building procedures at least 15 days before closing on the purchase of any lot or existing home in the Historic District.

3. All plans and specifications submitted to the Commission must be submitted in duplicate and accompanied by a written request for recommendation. The Commission shall have 10 days to review the plans. The Commission may employ the services of a licensed architect to review the plans for architectural authenticity in which case an additional 10 days will be required for the review. At the end of the review period the Commission will either; (a) recommend the plans and specifications as submitted, or (b) notify the party making such request of any objections thereto (such objections to be specifically stated). If objections are noted, the requesting party may, within 14 days thereafter, resubmit a request for recommendation rectifying any such objections to the Commission. The Commission shall then have an additional 10 days after receipt of said revisions to recommend or deny said changes. The Historic Preservation Commission's recommendation or denial of submitted plans shall be in writing and returned to the party making a submission, together with a notation of recommendation or denial and the date thereof affixed to one copy of such plans and specification.

B. Design Standards

Objectives: To ensure historic appropriateness for new construction within the Historic Districts. Projects shall be compatible in design, character, size, and proportion to existing "contributing" buildings in the District. New construction shall enhance the historic qualities and unique feeling of the historic areas of the city and shall not erode the character of the neighborhood.

1. Building Design

The West Bountiful historic district evolved over an approximate 100-year span and includes houses of many sizes and architectural styles. Lot sizes and setbacks are not consistent. These variations are part of the unique appeal of the area and should be respected and preserved as much as possible. New development in the historic district shall emulate this pattern by incorporating various size lots, various size houses, and various architectural designs appropriate to time period and area.

There are fine architectural examples of Victorian, Prairie style, Craftsman, Bungalow, English, Temple/Greek Revival, and cottage styles in the Historic District all of which are appropriate designs for new construction. In addition, many other architectural home designs built in Utah between 1848 and 1940 are appropriate.

2. **Size:** The size of the home shall correspond with the size of the lot. The house and all accessory buildings shall not cover more than 40% of the lot.

3. **Height:** One-story, one and one-half story (upper floor incorporated into the roof line), and two story homes (with an attic above the 2nd story) are appropriate. However, the height cannot be more than 35 feet above the curb level.

4. **Exterior Facades:** Brick is the predominant building material in the historic district. Therefore, the majority of houses should be brick with a fewer number of stone and clapboard homes. The body of the house shall be faced on all sides with at least 75% of the same material. Appropriate materials for the outside walls of homes, garages, carriage houses and other outbuildings are brick, stone/cultured stone or wood/fiber-cement board (such as James Hardee). Contrasting materials can be used for pillars, lintels, quoins, keystones, trims, etc. but must receive positive recommendation by the Commission. Brick wainscot is not historical in West Bountiful and shall not be used. Vinyl siding, aluminum siding, stucco panels will not be allowed. Walls, roof shapes, windows, doors, porches, and ornamental detail shall be historically correct for the home's architectural style and period of history.

5. **Windows:** Windows shall be appropriate in style and size for the home's period of architecture and must be uniform throughout the house. Windows must be recessed at least two (2) inches.

6. **Colors:** Shall be historically appropriate to the home's architectural style and period of history.

7. **Garages and other outbuildings:** All houses shall be constructed with a garage for not less than two (2) vehicles and not more than three (3) vehicles. Garages must be the same architectural style and color as the home. Garages can be (1) detached and located toward the back of the lot, (2) attached and flush to the house or extend up to five feet in front of the house if the garage is built to appear as part of the house and has a side or back opening, (3) attached with a front opening if the front of the garage is set back at least five feet from the front of the house. The Garage and other outbuildings shall be subordinate to the house and shall conform to the architectural style of the home.

8. **Fences:** No privacy fences are allowed from the front of the home to the street. However, low fences in wood/wood composite, ornamental iron, brick, rock, natural hedges, shrubs or any combination of the above can be used in the front yard as part of the landscaping. Privacy fencing for side and back yards must be per City Code Sec. 17.44.180. All fences shall be appropriate to the style of the home and must receive positive recommendation by the Commission.

9. **Landscape:** Driveways, sidewalks, steps, lighting, etc. shall be historically appropriate to the home's architectural style and period of history.

C. Appeal.

1. Any appeal to the Planning and Zoning Commission must be made on or before thirty (30) days after the Historic Preservation Commission's decision. The Historic Preservation Commission's decision will be upheld unless found to be arbitrary, capricious or not based on substantial evidence. Any appeal of the Planning and Zoning Commission determination must be made to the appropriate District Court of the State of Utah.